

Background:

Since Governor Schwarzenegger was sworn in on November 17, 2003 there have been several Executive Orders issued that will impact the Commission's operations. These Executive Orders, as well as a subsequent Budget Letter, are attached for your review. Staff will provide a summary at the Commission Meeting.

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Executive Order

EXECUTIVE DEPARTMENT

STATE OF CALIFORNIA



EXECUTIVE ORDER S-3-03 by the Governor of the State of California

WHEREAS, Executive Order D-70-03, issued on July 1, 2003, prohibited the filling of vacancies that would constitute a new hire to state government except for specified positions; and

WHEREAS, state government has an obligation to safeguard the trust of the people of the State of California; and

WHEREAS, it is vital to the economic health and prosperity of California that state government be conducted in the most business-like and economical manner, and that the people of this State be assured that their tax dollars be spent wisely; and

WHEREAS, the State General Fund is facing a significant imbalance between revenues and expenditures; and

WHEREAS, additional action must be taken to assure that the State lives within its means;

NOW, THEREFORE, I, Arnold Schwarzenegger, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, do hereby issue this order to become effective immediately:

1. All State agencies and departments are prohibited from filling vacancies that would constitute a new hire to state government except a new hire into a position exempt from civil service pursuant to Article VII, Section 4 of the California Constitution.
2. All State agencies and departments are prohibited from filling vacancies through promotion, or otherwise promoting personnel; provided, however, that this Executive Order shall not prohibit State agencies and departments from filling vacancies that arise in any position presently designated by the State Personnel Board as a Career Executive Assignment (CEA).
3. In order to facilitate the timely movement of personnel from the State Restriction of Appointments list to non-General Fund positions and to otherwise speed the necessary reduction in General Fund personal services costs, State agencies are encouraged to work with the Department of Finance to gain blanket exemptions from this prohibition with respect to vacant positions financed by funds other than the General Fund. Such exemptions shall not be granted, however, for vacancies financed by reimbursements from General Fund budgets or from funds that in the judgment of the Department of Finance are in jeopardy of incurring a deficit.
4. Agency Secretaries and other Cabinet-level positions will be responsible for ensuring compliance with the provisions of this Executive Order. For those departments that do not have Cabinet-level representation, the Department of Finance will be responsible for ensuring compliance with the provisions of this Executive Order.
5. The provisions of this Executive Order shall not apply to the Legislative and Judicial branches of government, nor shall it apply to the Constitutional Officers of this State. However, I invite these branches of government and the Constitutional Officers to participate.
6. For the purposes of this order, the University of California and the California State University System are requested to comply with the provisions of this Executive Order. Participation, however, should be limited to a level that will not interfere with meeting their educational mission.
7. The Department of Finance is hereby directed to coordinate the implementation of this Executive Order and may issue management memos or other instructions, as appropriate.
8. The provisions of this Executive Order will terminate on June 30, 2004.

IT IS FURTHER ORDERED that to the extent specific directives contained herein are inconsistent with directives contained in Executive Order D-70-03, the directives contained herein supersede those contained in that order. All other directives remain in effect.

IT IS FURTHER ORDERED that as soon as hereafter possible, this order be filed in the Office of the Secretary of State and that widespread publicity and notice be given to this order.



IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this the nineteenth day of November 2003.

/s/ Arnold Schwarzenegger

Governor of California

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Executive Order

EXECUTIVE DEPARTMENT

STATE OF CALIFORNIA



EXECUTIVE ORDER S-2-03 by the Governor of the State of California

WHEREAS, State Government should be dedicated to provide certainty for the regulated communities as well as meaningful and fair public participation in government decisions which impact the cost of doing business in California;

WHEREAS, the express language of the California Administrative Procedure Act declares that "There has been an unprecedented growth in the number of administrative regulations in recent years;"

WHEREAS, the increased costs associated with California's regulatory environment have diminished competition in the national and global marketplaces for the State's goods and services;

WHEREAS, the California Administrative Procedure Act requires that state Agencies proposing to adopt, amend, or repeal any administrative regulation must assess the potential for economic impact on California business enterprises and individuals;

WHEREAS, the California Administrative Procedure Act requires that all adopted regulations be easily understandable, the least burdensome and effective alternative, be consistent with underlying legislative authority and minimize the economic impact to the regulated communities;

WHEREAS, the California Administrative Procedure Act also provides that Agency policy enforced as if it were a regulation, but which has not been adopted, amended or repealed subject to public notice and comment, is contrary to law and public policy because it subverts open government; and

WHEREAS, with the onerous impact of over-regulation on the daily lives of Californians, it is time to reassess the system of State Government that is perceived to work against businesses and inhibit growth and economic prosperity.

NOW, THEREFORE, I, ARNOLD SCHWARZENEGGER, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, do hereby issue this order to become effective immediately:

1. Each Agency, department, board, commission and office of the executive branch (hereinafter referred to as "Agency" or "Agencies") shall:
 - a) Subject to any exceptions the Director of the Department Finance allows for emergency or other situations relating to health and safety, request, pursuant to the California Administrative Procedure Act, the immediate return of any proposed regulation, including emergency regulations, for final adoption, amendment, or repeal or other processing by the Office of Administrative Law (OAL) for further review for a period not to exceed 180 days;
 - b) Subject to the exceptions described in paragraph 1 a) above, cease processing, pursuant to the California Administrative Procedure Act, any proposed regulatory action, including emergency regulations, for further review for a period not to exceed 180 days;
 - c) Pursuant to law and the extent necessary to comply with this Executive Order, suspend or postpone the effective date of any adopted, amended or repealed regulations published in the California Regulatory Notice Register but not yet effective;
 - d) Reassess the regulatory impact on business of any proposed regulation for adoption, amendment or repeal described in paragraphs 1 a)-c), above, pursuant to California Government Code section 11346.3 and submit a preliminary report to the Legal Affairs Secretary within 90 days of the date of this Executive Order; and
 - e) Submit a report of all regulations adopted, amended or repealed by each Agency since January 6, 1999 to the Legal Affairs Secretary within 90 days of the date of this Executive Order which specifically addresses the following:

- 1) The impact of the adopted, amended or repealed regulations on California businesses as required by California Government Code section 11346.3;
 - 2) The authority for the adopted, amended, or repealed regulations pursuant to California Government Code sections 11342.1 and 11342.2; and
 - 3) Conformity of the adopted, amended, or repealed regulations with the criteria set forth in California Government Code section 11349.1, of necessity, authority, clarity, consistency, reference and non-duplication.
2. Within 30 days of the date of this Executive Order, each Agency shall assess and identify any present issuance, utilization, enforcement or attempt at enforcement of any guideline, criterion, bulletin, manual, instruction, order, or standard of general application which has not been adopted as a regulation in potential violation of California Government Code section 11340.5(a) and submit its findings to OAL pursuant to California Government Code section 11340.5(b) and the Legal Affairs Secretary;
3. Upon submitting the findings of paragraph 2, above, to OAL and the Legal Affairs Secretary, any Agency utilizing such guideline, criterion, bulletin, manual, instruction, order or standard of general application in the normal course of business until OAL makes its determination to the Governor pursuant to California Government Code section 11340.5(c) shall do so on an opinion-only basis which will not carry the force of law;
4. Within five working days of the date of this Executive Order, the Director of OAL shall submit to the Legal Affairs Secretary a list of all regulations pending 30 day review under California Government Code section 11349.3, as well as any emergency regulations filed within the last 60 days with OAL pursuant to California Government Code sections 11346.1 and 11349.6;
5. The Director of the Office of Administrative Law shall, as soon as is practicable, appoint an advisory body consisting of no more than five (5) persons knowledgeable in regulatory matters to advise the Office of the Governor on how the regulatory process can be improved in California. The term of the advisory body shall expire on or before July 30, 2003; and
6. Agency Secretaries and other Cabinet level positions will be responsible for ensuring compliance with the provisions of this Executive Order. For those departments that do not have Cabinet level representation, the Department of Finance will be responsible for ensuring compliance with the provisions of this Executive Order; and
7. The regulatory relief described herein shall be accomplished through existing resources.

I FURTHER DIRECT that as soon as hereafter possible, this order shall be filed with the Office of the Secretary of State and that widespread publicity and notice be given to this order.



IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this the seventeenth day of November 2003.

/s/ Arnold Schwarzenegger

Governor of California

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BUDGET LETTER

	NUMBER: 03-42
SUBJECT: HIRING FREEZE	DATE ISSUED: November 26, 2003
REFERENCES: EXECUTIVE ORDER S-3-03	SUPERSEDES: BUDGET LETTERS 03-17 AND 01-38

TO: Agency Secretaries
Department Directors
Departmental Budget Officers
Departmental Accounting Officers
Department of Finance Budget Staff

FROM: DEPARTMENT OF FINANCE

Budget Officers are requested to forward a copy of this budget letter (BL) to departmental Human Resources and Labor Relations Offices.

This BL provides departments with instructions on Executive Order S-3-03 that was signed on November 19, 2003 to prohibit departments from filling vacancies or promoting staff.

I. Background

Now that the Audit Team appointed by Governor Schwarzenegger has reported that the new Administration has inherited a debt of almost \$25 billion, and is facing a deficit of \$62 billion through 2006-07, it is clear that previous attempts to curb spending have been insufficient. While a comprehensive plan including program eliminations and restructuring will be necessary, the State must take further immediate action to reduce expenditures and find operating savings for State Agencies and departments. In this spirit, the new Administration has directed all Agencies and departments to cease making new commitments for future expenditures.

II. Executive Order S-3-03, Hiring Freeze

Executive Order D-70-03, issued on July 1, 2003, prohibited the filling of vacancies that would constitute a new hire to State Government except for (a) public safety, health, and security positions, (b) personnel directly involved in producing State revenues, (c) personnel directly involved in direct care treatment and custody in prisons, special schools, hospitals, and health care facilities, and (d) personnel directly involved in fire fighting. On November 19, 2003, Executive Order S-3-03 was signed to prohibit departments from filling all vacancies that would constitute a new hire to State Government.

Effective immediately, only the following actions can be implemented without approval of a new Request for Hiring Freeze Exemption Form:

1. Filling a position exempt from civil service pursuant to Article VII, Section 4 of the California Constitution;
2. Filling vacancies that arise in any position presently designated by the State Personnel Board as a Career Executive Assignment (CEA);
3. Filling positions for which a hiring freeze exemption has been previously approved but the position has not been filled;

4. Mandatory Reinstatements;
5. Required reassignments (e.g., transfers, demotions) resulting from an approved layoff plan.
6. A prior commitment if a legal obligation exists.
7. Intradepartmental transfers provided that the position being filled does not increase General Fund costs or the costs of a fund that is either transferable to the General Fund or is not solvent.

Departments must maintain all available supporting documentation that supports any action implemented without a hiring freeze.

Unlike previous hiring freezes, this new Executive Order prohibits all State Agencies and departments from filling vacancies through promotion, or otherwise promoting personnel. This includes Promotions-In-Place.

The provisions of the Executive Order do not apply to the Legislative, Judicial branches of government, and Constitutional Officers of the State. However, these branches of government are invited to participate. In addition, the University of California and the California State University System are requested to comply with the provisions of this Executive Order; however, participation should be limited to a level that will not interfere with meeting their educational mission.

Limited Exemptions

An exemption from the Hiring Freeze will be considered for only:

1. Positions specifically identified as required by statute.
2. Positions required to meet a declared emergency.
3. Positions required to meet an imminent and urgent threat to public health and safety.
4. Vacant positions financed by funds other than the General Fund that will be filled by an employee on a State Restriction of Appointments list or a Reemployment list. Such exemptions shall not be granted, however, for vacancies financed by reimbursements from General Fund budgets or from funds that in the judgment of the Department of Finance are in jeopardy of incurring a deficit or could be transferred to the General Fund.

Departments requesting an exemption from the Hiring Freeze must receive approval on a Request for Hiring Freeze Exemption Form (DF-160). This form must be signed by the Department Director, and the Agency Secretary (for those departments under an Agency Secretary). After approval by the Department Director and the Agency Secretary, the form must be submitted to the Department of Finance (Finance) for a final review and possible approval.

An electronic version of the DF-160 is available with this BL on the Finance website, under Information for Government Agencies, Budget Letters at: <http://www.dof.ca.gov/html/budlettr/budlets.htm>.

Please submit three hard copies of each request to your Finance Budget Analyst. The electronic submission of forms (i.e., electronic mail) will not be accepted. Incomplete requests will not be considered and will be returned to Agencies (where applicable), departments, or other State entities.

Form DF-160 Instructions (Hiring Freeze Exemption Form)

Request Date and Request Number: Include date of submittal and request number (e.g., 0001, 0002).

Attachments: Indicate whether attachments are included and enter the total number of pages, including the DF-160.

Section A: Indicate the type of exemption.

NOTE: Departments may request only one exemption type per Request for Hiring Freeze Exemption, but may request more than one position per submittal (see Section F below) if the information provided in Sections B, C, and D applies to all affected positions.

Section B: Provide an explanation of the need to fill the position. If the position is funded in part or in whole from the General Fund or a fund that can be transferred to the General Fund, provide an explanation of the need to incur the expense of filling the position when the State is facing a General Fund debt of almost \$25 billion.

Section C: Describe the consequences that will occur if the exemption is not granted.

Section D: State whether or not the approval of this exemption will result in future exemptions (e.g., expand a program that will require further staffing as a result of this exemption).

NOTE: The space provided for the descriptions in Sections B, C, and D will expand as necessary when using the automated version of this form.

Section E: Identify the funding source(s) for the exemption request by allocating the estimated annual salary of each position by Item of Appropriation (Organization-Reference-Fund, XXXX-XXX-XXXX). If the funding source(s) are different for requests addressing multiple positions, departments must attach supporting schedules indicating the annual salary and funding source for each position. Departments must highlight any non-General Fund sources that can be transferred to the General Fund.

Section F: Indicate the position number, classification title, salary range, and requested effective date for the applicable position for which the Hiring Freeze Exemption is requested. For requests addressing more than one position, departments must attach supporting schedules to reflect the required information for each position.

Section G: Departments reporting to Agency Secretaries must include the request approval (signature) of both the department director and the Agency Secretary (or authorized designees). Departments and other State entities not represented by a Cabinet-level officer must include the approval of the department director or other authorized designee.

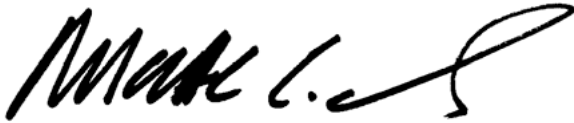
Contact Person: Provide the name and telephone number of the person who can respond to questions.

Department of Finance Review: Upon submittal of the DF-160 to your Finance Budget Analyst, Finance will review the request and notify Agencies, departments, and other State entities, as appropriate, of the approval or denial of the request. No actions should be taken in advance of receiving notification from Finance that the Request for Hiring Freeze Exemption has been approved.

Compliance: Agency Secretaries and other Cabinet-level officers are responsible for administering and ensuring compliance with the Hiring Freeze. For those departments that are not represented by Cabinet, Finance is responsible for ensuring compliance. To maintain the existing ability to generate reports for monitoring compliance, Agencies, departments, and other State entities are required to comply with provisions of the State Controller's Personnel Letter 01-022.

Questions regarding this BL should be directed to the following entities:

- Questions specific to individual departmental Requests for Hiring Freeze Exemptions should be directed to your Finance Budget Analyst.
- Technical guidance on provisions of, or the attachments to, this BL should be directed to Bob Sands of the Department of Finance, Administration Unit, at (916) 445-3274, (CNET 485-3274).

A handwritten signature in black ink, appearing to read "Michael C. Genest", with a stylized flourish at the end.

MICHAEL C. GENEST
Chief Deputy Director

Attachment